

Torres	Velázquez	Welch
Tsongas	Wasserman	Wilson (FL)
Vargas	Schultz	Yarmuth
Veasey	Waters, Maxine	
Vela	Watson Coleman	

NOT VOTING—16

Beatty	Loudermilk	Suozzi
Bost	Love	Visclosky
Duffy	McCaul	Walz
Hartzler	Mulvaney	Zinke
Hensarling	Roe (TN)	
Huizenga	Rush	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1501

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RED RIVER GRADIENT BOUNDARY SURVEY ACT

Mr. BISHOP of Utah. Mr. Speaker, pursuant to House Resolution 99, I call up the bill (H.R. 428) to survey the gradient boundary along the Red River in the States of Oklahoma and Texas, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Red River Gradient Boundary Survey Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFECTED AREA.—

(A) IN GENERAL.—The term “affected area” means land along the approximately 116-mile stretch of the Red River, from its confluence with the north fork of the Red River on the West to the 98th meridian on the east.

(B) EXCLUSIONS.—The term “affected area” does not include the portion of the Red River within the boundary depicted on the survey prepared by the Bureau of Land Management entitled “Township 5 South, Range 14 West, of the Indian Meridian, Oklahoma, Dependent Resurvey and Survey” and dated February 28, 2006.

(2) GRADIENT BOUNDARY SURVEY METHOD.—The term “gradient boundary survey method” means the measurement technique used to locate the South Bank boundary line in accordance with the methodology established in *Oklahoma v. Texas*, 261 U.S. 340 (1923) (recognizing that the boundary line along the Red River is subject to change due to erosion and accretion).

(3) LANDOWNER.—The term “landowner” means any individual, group, association, corporation, federally recognized Indian tribe or member of such an Indian tribe, or other private or governmental legal entity that owns an interest in land in the affected area.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(5) SOUTH BANK.—The term “South Bank” means the water-washed and relatively permanent elevation or acclivity (commonly known as a “cut bank”) along the southerly or right side of the Red River that—

(A) separates the bed of that river from the adjacent upland, whether valley or hill; and

(B) usually serves, as specified in the fifth paragraph of *Oklahoma v. Texas*, 261 U.S. 340 (1923)—

(i) to confine the waters within the bed; and

(ii) to preserve the course of the river.

(6) SOUTH BANK BOUNDARY LINE.—The term “South Bank boundary line” means the boundary, with respect to title and ownership, between the States of Oklahoma and Texas identified through the gradient boundary survey method that does not impact or alter the permanent political boundary line between the States along the Red River, as outlined under article II, section B of the Red River Boundary Compact enacted by the States and consented to by Congress pursuant to Public Law 106-288 (114 Stat. 919).

SEC. 3. SURVEY OF SOUTH BANK BOUNDARY LINE.

(a) SURVEY REQUIRED.—

(1) IN GENERAL.—The Secretary shall commission a survey to identify the South Bank boundary line in the affected area.

(2) REQUIREMENTS.—The survey shall—

(A) adhere to the gradient boundary survey method;

(B) span the length of the affected area;

(C) be conducted by surveyors that are—

(i) licensed and qualified to conduct official gradient boundary surveys; and

(ii) selected jointly by and operating under the direction of—

(I) the Texas General Land Office, in consultation with each affected federally recognized Indian tribe; and

(II) the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe; and

(D) be completed not later than 2 years after the date of enactment of this Act.

(b) APPROVAL.—

(1) STATE APPROVAL.—

(A) IN GENERAL.—Not later than 60 days after the date on which the survey under subsection (a)(1) is completed, the Secretary shall submit the survey for approval to—

(i) the Texas General Land Office, in consultation with each affected federally recognized Indian tribe; and

(ii) the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe.

(B) TIMING OF APPROVAL.—Not later than 60 days after the date of receipt of the survey under subparagraph (A), the Texas General Land Office, in consultation with each affected federally recognized Indian tribe, and the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe, shall determine whether to approve the survey.

(C) SURVEYS OF INDIVIDUAL PARCELS.—

(i) IN GENERAL.—Surveys of individual parcels in the affected area shall be conducted in accordance with this section.

(ii) APPROVAL OR DISAPPROVAL.—A survey of an individual parcel conducted under clause (i) shall be approved or disapproved, on an individual basis, by the Texas General Land Office, in consultation with each affected federally recognized Indian tribe, and the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe, by not later than 60 days after the date of receipt of the survey.

(2) NO FEDERAL APPROVAL REQUIRED.—The survey conducted under subsection (a)(1),

and any survey of an individual parcel described in paragraph (1)(C), shall not be submitted to the Secretary for approval.

(c) NOTICES.—

(1) SECRETARY.—Not later than 60 days after the date on which a survey for an individual parcel is approved by the Texas General Land Office and the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma, under subsection (b)(1)(C), the heads of those offices shall submit to the Secretary—

(A) a notice of the approval of the survey; and

(B) a copy of—

(i) the survey; and

(ii) any field notes relating to the individual parcel.

(2) ADJACENT LANDOWNERS.—Not later than 30 days after the date on which the Secretary receives a notice relating to an individual parcel under paragraph (1), the Secretary shall provide to each landowner of land adjacent to the individual parcel—

(A) a notice of the approval of the survey; and

(B) a copy of—

(i) the survey; and

(ii) any field notes relating to the individual parcel.

SEC. 4. EFFECT OF ACT.

Nothing in this Act—

(1) modifies any interest of the State of Oklahoma or Texas, or the sovereignty, property, or trust rights of any federally recognized Indian tribe, relating to land located north of the South Bank boundary line, as established by the survey;

(2) modifies any land patented under the Act of December 22, 1928 (45 Stat. 1069, chapter 47; 43 U.S.C. 1068) (commonly known as the “Color of Title Act”), before the date of enactment of this Act;

(3) modifies or supersedes the Red River Boundary Compact enacted by the States of Oklahoma and Texas and consented to by Congress pursuant to Public Law 106-288 (114 Stat. 919);

(4) creates or reinstates any Indian reservation or any portion of such a reservation; or

(5) alters any valid right of the State of Oklahoma or the Kiowa, Comanche, or Apache Indian tribes to the mineral interest trust fund established under the Act of June 12, 1926 (44 Stat. 740, chapter 572).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this Act \$1,000,000.

The SPEAKER pro tempore. Pursuant to House Resolution 99, the gentleman from Utah (Mr. BISHOP) and the gentlewoman from Hawaii (Ms. HANABUSA) each will control 30 minutes.

The Chair recognizes the gentleman from Utah.

GENERAL LEAVE

Mr. BISHOP of Utah. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and insert extraneous material on H.R. 428.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. BISHOP of Utah. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. THORNBERRY), the sponsor of this piece of legislation.

Mr. THORNBERRY. Mr. Speaker, first, let me thank Chairman BISHOP

for not only yielding me the time, but for his patience and diligence and understanding this issue, and I also want to thank Subcommittee Chairman MCCLINTOCK for the work that he has put into it.

The Natural Resources Committee has conducted hearings on this issue. They have reported out bills related to this issue in the last two Congresses, and last Congress, the whole House voted for a bill that deals with this issue. I am grateful to Chairman BISHOP and Subcommittee Chair MCCLINTOCK for all of that effort.

Mr. Speaker, this bill is just a small sliver of what this House has passed before. This bill requires the Federal Government to do what the Federal Government should have done long ago, and that is to conduct a survey along the Red River following the instructions of the United States Supreme Court. That is all this bill does.

It does not dispose of any land; it does not alter the rights or claims of any State, any tribe, any individual. It just says the Federal Government has a responsibility to know what the Federal Government is supposed to be controlling. They have never, ever conducted a survey of this area, and so this bill says: You will have a survey conducted using the method that the United States Supreme Court has repeatedly held is a method you ought to use.

I am a little taken aback, Mr. Speaker, on why that should be controversial. We could go on at some length about how this came to be. It is interesting, historically, and we could go into a variety of details and so forth; but, again, the bottom line is the Federal law currently says the Federal Government has a responsibility to inventory and ascertain where Federal land is. Yet the Bureau of Land Management not only has never done it in close to 100 years after the Supreme Court decision, the Bureau of Land Management has said they never intend to. They will never conduct a survey of this 116-mile area.

So this bill, as I say, is very simple. It says the Bureau of Land Management shall commission a survey, jointly agreed upon by Texas and Oklahoma, tribal and other interests a full part of that, but there will, once and for all, be a survey to determine where the Federal claim is and where the Federal claim is not.

Now, part of the reason that is so important is because the Bureau of Land Management has, especially in 2013, come out and made a variety of claims that has thrown in doubt the proper title and ownership of land that has been in families for generations, that people have paid taxes on for generations. That has put a cloud on title of private landowners, and it does not help that cloud when the Bureau of Land Management says: We will never conduct a survey to determine exactly where the claim is.

So everyone, Mr. Speaker, every State, every tribe, every local govern-

ment, every individual—even the Federal Government and the BLM itself—deserves to know where the claims rightfully are and where the claims are rightfully not.

First step is information. That is all this bill does. I think it is pretty clear that we should at least take this step.

Ms. HANABUSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Federal ownership of the land along the Red River dates back to the Louisiana Purchase. Over time, gradual changes in the course of the river have created uncertainty regarding Federal interests in the area as well as confusion about the exact boundary between Texas and Oklahoma. Further complicating the matter, Native American Tribes have mineral and other interests in the area impacted by the precise ownership of the land in question.

In fact, as noted in the Supreme Court case of *Oklahoma v. Texas*, a 1923 case, the decision was the boundaries were changed due to accretion and erosion. It is important to note that the gentleman from Texas does not dispute the criteria set forth by the Supreme Court in *Oklahoma v. Texas*. Moreover, in 2000, Congress passed the Red River Boundary Compact, which shifted the boundary line between the States, but the location and status of lands in the public domain remain unchanged. Along the 116-mile stretch, a portion of the land in the Red River area is still under Federal ownership because it has never been disposed of under the authority of Congress.

In 2013, the Bureau of Land Management set out to revise the Federal resource management plan for Federal lands—not private lands, Federal lands—in Oklahoma, Kansas, and Texas. As part of that process, the BLM began to survey the lands to determine the extent of all ownership claims. According to the 2014 testimony from the Deputy Director of the BLM, Steve Ellis, the survey process the BLM intends “to identify, with certainty, and propose management alternatives for lands which fall within the public domain but have never been patented, reserved, or disposed.”

According to that same testimony, the BLM estimates that approximately 30,000 acres of public land exist along the Red River between the north fork of the river and the 98th meridian. They also estimate that as many as 23,000 of those acres may be overlaid by private ownership interests.

One of the most significant and advantageous parts about the process for updating land use plans is that it includes steps along the way that allow for public input, analysis, and informed decisionmaking.

Once the survey is complete, the BLM has a variety of statutory authorities the agency can use to resolve conflicting claims, including the Federal Land Policy and Management Act and the Color of Title Act.

H.R. 428, the bill before us today, has a troubled history. Flaws in the bill

have prevented it from becoming law for several years. Some of those shortcomings have been addressed, but others remain.

H.R. 428 would halt the planning and survey process in its tracks. The bill would strip the Bureau of Land Management of its survey authority along the 116-mile stretch of the Red River, and it would force the Federal Government to accept the survey completed by the States of Texas and Oklahoma.

Prohibiting the Federal Government from surveying its own land is unprecedented and unwarranted. What is also troubling is that, in stark violation of Republican policy against authorizations without an offset, this legislation authorizes the expenditure of \$1 million in Federal funding to pay the States to complete the survey.

It is important to note that allowing State governments to dictate the outcome of this process is a terrible precedent, and forcing the American taxpayers to pay the States for those surveys adds insult to injury.

□ 1515

Parts of this case are currently in the Federal court of the U.S. District Court for the Northern District of Texas. The parties include the State of Texas, BLM, and plaintiff landowners; and they are in mediation working to resolve these very complicated issues. The nature of that lawsuit is a quiet title action.

I include in the RECORD a minute order dated Tuesday, January 10, 2017. At the bottom of the order it reads, in relevant part: “Case did not settle but parties are continuing to work on settlement. Court will continue to monitor and assist mediation efforts.”

[Case 7:15-cv-00162-O Document 130 Filed 01/19/17 PageID 1449]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION
MINUTE ORDER—MEDIATION
(with parties and counsel)

JUDGE: Jeffrey L. Cureton
LAW CLERK: K. Verna
LOCATION: United States District Court, Wichita Falls, Texas
Case No.: 7:15-CV-162-O
Case Style: Aderholt, et al. v. Bureau of Land Management, et al.

Date Held: Tuesday, January 10, 2017

Time: 7:45 a.m.–6:00 p.m.

Persons Present at Mediation:

Plaintiffs: (1) Kenneth Aderholt, (2) Patrick Canan, (3) Kevin Hunter, (4) Ronald Jackson, (5) William Lalk, (6) Kenneth Patton, (7) Barbara Patton, (8) Jimmy Smith, (9) Kenneth Lemons, Jr. in his capacity of Sheriff of Clay County, Texas, (10) Honorable Lee Harvey and Meredith Kennedy as representatives of Plaintiff Wichita County, Texas, (11) Honorable Kenneth Liggett as Representative of Plaintiff Clay County, Texas, (12) Honorable Greg Tyra and Cory Curtis as Representatives of Plaintiff Wilbarger County, Texas

Counsel for Plaintiffs: Robert Henneke, Bradley Caldwell, J. Austin Curry, and John Summers

Counsel for Intervenor Plaintiff State of Texas: Megan Neal and Amy Davis

Representatives for Intervenor Plaintiff George P. Bush as Commissioner of the Texas General Land Office: Mark Havens, General Counsel and Mark Neugebauer, Chief Surveyor

Counsel for Intervenor Plaintiff George P. Bush: Ken Slavin and Deborah Trejo

Defendants: Robert Casias as Representative of Defendant Bureau of Land Management

Counsel for Defendants: Romney Philpott, Jason Hill, and Charles Babst

Mediation conducted with the parties and attorneys. Case did not settle but parties are continuing to work on settlement. Court will continue to monitor and assist mediation efforts.

Ms. HANABUSA. Mr. Speaker, this bill would undermine the progress of the judicial branch and instead prohibit the Federal Government from surveying its own land. It also would force the American taxpayers to pay the States for these surveys. Shifting this authority, as we said earlier, is unprecedented and would cause more confusion.

We should allow the parties to resolve this conflict, and Congress should stay out of it.

What is troubling is that the bill is being proposed as something that brings the parties together. This mediation is doing that.

More importantly, when you look at the bill itself, the question has to be asked: Where is the Department of the Interior? Where is the BLM? Let us not forget, it is the Department of the Interior that has the fiduciary duty to the tribes.

The question really is: Can or should Congress abdicate its fiduciary obligation that is owed to the tribes by doing this survey?

H.R. 428 does not warrant consideration by this body. We clearly have more important issues facing this Nation. Congress should get out of the way and allow the current BLM process to play out. This bill is a waste of our valuable time and taxpayers' dollars.

I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. MCCLINTOCK), chairman of the Committee on Natural Resources' Subcommittee on Federal Lands that deals with this area.

Mr. MCCLINTOCK. Mr. Speaker, I thank Congressman THORNBERRY for working through three congressional sessions to do justice to the property owners along the Red River.

The injustice that this bill corrects is galling. In 1923, the U.S. Supreme Court established rules for determining the boundary between Texas and Oklahoma, which established property rights over this land.

For nearly a century, the Federal Government recognized and respected the property lines established by this ruling. Property owners purchased and sold this land and, in some cases, passed it down from generation to generation. These property owners, in good faith, dutifully paid taxes on their lands year after year, invested in these lands, maintained them, cultivated them, and improved them.

Nearly 100 years later, in 2013, the Bureau of Land Management announced that it was arbitrarily changing these long-established and settled boundaries and claiming ownership of 90,000 acres of land. This outrageous claim clouds property rights along this vast territory.

It is based on the flimsiest of pretexts: a 2009 survey of some 6,000 acres out of the total 90,000 in dispute. This survey ignored the 1923 Supreme Court decree that originally established the boundary lines, and it then extrapolated the results of this limited survey to justify this land grab over the entire region. In other words, BLM laid claim to these lands with a guess based upon a fraud.

The BLM has since scaled back its claim to 30,000 acres, a testament to the flimsy process with which it has upended the lives of every property owner in the region.

The Red River Private Property Protection Act tells the BLM to back off. It authorizes a comprehensive survey of all of the disputed acreage to be conducted jointly by the two States directly affected and in consultation with the tribal governments involved. It requires that the survey be conducted on the longstanding criteria established by the Supreme Court, rather than the recent and illegal invention of the BLM.

Upon the completion of the survey, the States of Texas and Oklahoma, in coordination with federally recognized Indian tribes, will review and approve the survey to ensure its accuracy and impartiality.

Without this act, title to the farms and homes will be clouded for decades while the matter drags on through the courts. That is the course that the gentlewoman suggests we should follow: drag this on for years, if not decades, while these property owners languish in uncertainty.

Meanwhile, the BLM's assertion of regulatory jurisdiction would have devastating impacts on local homeowners and businesses and make it much more difficult to encourage economic development in the region.

This measure is a scaled-down version of the bill passed by this House in 2015, in order to address concerns expressed by the American Indian Nations involved.

Mr. Speaker, government exists to protect our natural rights, including our property rights, and this bill realigns our government with its stated purpose and its stated promise.

I urge its speedy adoption.

Ms. HANABUSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is very important for us—though they have made light of the fact that this has a history, beginning with the Louisiana Purchase—that this is not a new issue. There are a series of subsequent treaties with foreign governments in 1819, 1828, and 1838, which set the south bank of the river as the southern border of

the United States and the northern border of what is now the State of Texas.

In 1867, when a portion of this public domain was reserved for the Kiowa-Comanche-Apache (KCA) Reservation, the middle of the main channel of the river between the 98th meridian and the north fork of the river was established as the reservation's southern boundary. The remaining land between what is now called the medial line and the southern bank retained its status as public land, which continues through the present.

In a series of decisions in the 1920s, the U.S. Supreme Court adopted a method known as the gradient boundary method for determining the location of the boundary between Texas and Oklahoma along the southern bank of the river. In giving certainty to the boundary's location and the extent of tribal holdings, the Court's decision also provided a basis for clarifying private land ownership on each side of the river.

In 1981 and 1984, two separate Oklahoma landowners argued in the United States District Court that, under riparian law, changes in the river's location had expanded their private holdings while reducing the acreage of the Texas landowners whose properties faced them across the river. In both cases, the district court followed the Supreme Court's established principle concerning the location of public and private lands.

Private property in Oklahoma extended to the center of the river while private property in Texas stopped at the ordinary high-water mark on the southern bank, with the remaining land being part of the original public domain located in Oklahoma.

In 2000, the State legislatures of Oklahoma and Texas, along with tribal leaders from the neighboring KCA Tribes and Chickasaw and Choctaw Nations, attempted to resolve these remaining issues by agreeing to the Red River Boundary Compact. Congress later consented to the compact, and, in so doing, agreed to move the jurisdictional boundary between the States from the south bank gradient line to the south bank vegetation line.

The BLM began updating its resource management plan for public lands in Kansas, Oklahoma, and Texas, which includes the area along the Red River, in 2013. The BLM doesn't full know the extent of public domain, and that is why they are trying to do the survey. The resource management planning process would update the current RMPs covering this area, which were developed in 1994 and 1996, and establish a long-term plan articulating the BLM's objectives and strategies for maintaining the health and productivity of public lands in the region.

As we discussed earlier, in 1923, the United States Supreme Court also interjected into this and set the criteria.

We can disagree on some of these issues, but we can at least agree to get

our facts straight. We do know, Mr. Speaker, that this has been an ongoing process and this has gone back for different administrations.

I think the question becomes: Why is it necessary to do this now? What is it that is happening now? They are in court. They have been in court. They have availed themselves of the court process. No one disagrees with the United States Supreme Court decision.

So the question we should all ask ourselves is: Why now? Why take out, in this bill, my amendment that was rejected by the Rules Committee which would have eliminated that portion which says basically the Federal Government has no say in the survey? So why would we abdicate that major responsibility?

We not only have responsibility to the tribes listed, but there are also different kinds of tribal lands, which we must take into account. So the question is: Why abdicate it?

If as was stated earlier that what we are talking about is just a bill that says to the BLM to do the survey, then why does it contain within it a statement that says it has no right to concur or to approve?

I think that it would be a different situation if this was a bill that said: hurry up and do your survey. But that is not what this bill says.

This bill says the States of Texas and Oklahoma will do it—actually, Texas will do it in consultation with Oklahoma and specific tribes.

Why doesn't it say, if what we want is a survey, that BLM do the survey?

I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. LAMALFA), chairman of the Committee on Natural Resources' Subcommittee on Indian, Insular and Alaska Native Affairs.

Mr. LAMALFA. Mr. Speaker, you know when we swear to uphold an oath to our country and to our States, a lot goes with that responsibility. We have a very sacred covenant in protecting private property rights, the cornerstone of the founding of this Nation.

So to see that after many decades or even centuries of people feeling secure in their property, in their land, how can one government agency come along and defy two entire States in a process they have used, the gradient boundary survey method, in this case, along the Red River between Texas and Oklahoma? How can you have one rogue Federal agency coming in and saying we supersede what these two States and decades and decades of tradition and security that these families have had along here is completely wrong?

That is why H.R. 428 would send the right signal and give certainty back to these families. We are talking about a court process. Well, for private parties to have to go to a court, it is not the same as the government with its endless resources, endless time to slog through court in this case after 8 years.

This is a lot of wear and tear on families when their property and their long-time traditions are in question here.

I go back to a case some years ago, the *Kilo v. New London* decision, where it was deemed that government can just take property if it was deemed beneficial to the government or to the tax base, indeed, trampling on property rights. At least, in that case, you can count on that there might be some compensation for having that land taken.

Will that even happen here? They are over a mile off in some of their surveys where the BLM believes the land line is. So the true border needs to be made certain and needs to be respectful of Texas and Oklahoma in their process in this property right discussion.

Indeed, an 8-year-long nightmare, imagine what this does to families. It happens in my district as well when regulators come in and decide they are going to change the water rights. It is not even good for their health. People, when they are going through this legal process, it is painful for them.

So H.R. 428 is a very important method of doing, through the gradient boundary survey, a fair way—one that is recognized by Texas and Oklahoma for many decades as the correct way—to survey and finally put this issue to rest after many, many more years than what it should have been.

Indeed, private property rights are the cornerstone of part of why this country was even founded. Why do we continue to do this to the families who have, in good faith, paid taxes, made their land payments, and been part of the fiber of Texas and Oklahoma around the Red River for so many, many years?

□ 1530

Instead of confusion, let's give them certainty. I urge us to all support H.R. 428 and go to a survey method that is fair and recognized by two States, not by one Federal agency that wishes to override that process.

Ms. HANABUSA. Mr. Speaker, I yield myself such time as I may consume.

It is very interesting because we seem to be confusing what is at issue here. If what is at issue here is a survey process, then there is no question. The survey process is set up in the United States Supreme Court decision of *Oklahoma v. Texas*. No one disputes that that should be it.

Neither is it disputed that BLM cannot illegally claim private property and, in fact, it does have a process by which it can sell that private property.

First, under Section 203 of FLPMA, the BLM may sell public lands for private fair market value if, through the planning process, the public land has been determined to be difficult and uneconomic to manage; the land was acquired for a specific purpose but no longer fulfills the Federal purpose; or disposal may serve important public objectives which cannot be achieved prudently on land other than public land.

Under Section 206 of the FLPMA, the Secretary of the Interior can also conduct land exchanges of equal value with the same State so long as the public interest is well served.

Mr. Speaker, the reason why there is a compact of 2000 on this specific issue is because the States can't do it without the concurrence of Congress. What is being proposed here, in terms of the survey, is really using a Federal standard.

Again, the question is: Why?

More importantly, Mr. Speaker, there are tribal lands involved; not only the tribes noted, but also different types of tribal lands, private tribal lands different from that which is held in trust by the Secretary of the Interior, and we are abdicating that responsibility.

We have a fiduciary duty to these tribal lands, and it should not be treated basically with, well, if we don't agree, maybe we can come forward and say we don't agree. That is not what this is about.

They are beginning the process. They are in mediation. The courts have been the mechanism by which landowners have views, and there is one going on. So why not let the process go?

It just seems to be out of Congress' authority to simply abdicate the responsibilities that we have and say: The States can do it. And then we pay for it. Now, that makes no sense.

We need to be able to say to those that we have a fiduciary obligation to, and others, that we have done our job; that the Federal Government has done its job.

They are in the process. So the question I have again is, why now? Why now? This has been going on since way—I read through all the different treaties and the different types of cases that came up since 1923, *Oklahoma v. Texas*. So why now?

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Texas (Mr. GOHMERT), who understands this, who is coming from that State, and who also serves as the vice chairman of the entire Resources Committee.

Mr. GOHMERT. Mr. Speaker, I am grateful to the chairman of our committee. I appreciate the question asked by my colleague across the aisle: Why now?

The answer to the question, why now, is that this Federal Government has not done its job. This Congress has not done its job in complying with the aspirations of the Constitution.

When you have disagreement between documents, as we did between the Louisiana Purchase on the south border of the Red River, and Oklahoma going to the middle of the Red River—and, of course, the Red River changes as time goes on—then the Federal Government should have long since stepped in and said: Here is the land we are talking about. Here is where the borders will actually go.

I am amazed at times, we talk in terms of agencies, of bureaus, of departments, as if they are some independent country that deserves a place at the United Nations making policies and making executive decisions all their own.

These people work for us. The Bureau of Land Management does have some folks that don't understand that. They think they are an entity unto themselves, and they make policy. Well, that is not what the Constitution set up.

In fact, the Constitution, in the preamble, as my friends know, says: "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility. . . ."

This is what this bill is trying to do.

Now, last Congress, my friend, MAC THORNBERRY, had a bill that went ahead and took care of the issue, once and for all, and it was going to sell the land, and this dispute could be over. But since friends in the Senate were not able to come to a conclusion and they still just could not figure out what an appropriate disposition was, then my friend, Mr. THORNBERRY, has come back with this bill.

It is consistent with what every good parent will tell the child: Before you make a decision, gather all the evidence and information you can, then make a more educated, informed decision.

That is all this bill does, Mr. Speaker. It says, we are going to do a survey now. We are going to figure out what land we are talking about. And since the BLM has said we are not even going to even survey that land, we are going to leave it in dispute. We are not going to establish justice. We are going to worry about "just us" at the BLM.

We are not going to ensure domestic tranquility. We are going to create chaos, because when we create chaos, then we benefit. We get more land, we put people in jail.

Well, this is a simple bill, for heaven's sake. It says we are going to do a survey. We are going to see what we have got. That is all the bill does.

Why now?

Exactly. That is a great question. This should have been done 100 years ago or more than 100 years ago. It wasn't, so it is time to do it now and ensure domestic tranquility.

So all of the parties involved—not the BLM; they are not a party—the Federal Government, the Government of Oklahoma, the Government of Texas, and all the owners involved can, once and for all, have domestic tranquility.

Ms. HANABUSA. Mr. Speaker, I yield myself such time as I may consume.

I respectfully disagree. In the year 2000, when the Red River Compact was approved by Congress, and because of the nature of a compact and because of the requirements of our United States Constitution, which I know my colleagues abide by, it is a different situa-

tion. This could have been addressed if they wanted it addressed, but that is not what was done.

It is not over 100 years. We have intervening facts, like the compact of 2000, which afforded Congress the opportunity to look at this and, more importantly, the States the opportunity to decide.

Now, what did they do?

They disagreed on the high-water mark. They did not go into these specific issues. I am sure it is not something that occurred within the last 17 years. This is something that existed all along. So I call everyone's attention to the compact of 2000.

Last year's bill, H.R. 2130, contained in there the following statements: The Secretary disclaims any right, title, and interest to the land located south of the south bank boundary line in the affected area.

It also said that surveys conducted by the Bureau of Land Management before the date of enactment of this act shall have no force or effect in determining the south bank boundary line.

So to say that they didn't do anything—or it was being done—the law that was attempted to be passed, it passed out of the House. The bill that passed out of the House contains in it specific language that they are saying they don't want any of that to apply.

So, Mr. Speaker, we come back to, I guess, why? Why? The authority to survey and approve or disapprove the sale or transfer of public lands belongs to the Federal Government acting on behalf of the American people.

The Bureau of Land Management has held the authority to examine the accuracy of these surveys and make revisions, when necessary and, in this instance, an ongoing process to make changes began in 2013. It is not like nothing has happened. It has been ongoing. The BLM has the tools and authority to resolve this survey problem, and Congress should just get out of the way and allow the process to play out.

Instead, my colleagues across the aisle want to use the situation as an excuse to make progress on their larger goal, alienating public land.

Just last week, they voted to repeal the BLM's efforts to update their resource management planning process. BLM's new rule increased the opportunities for the public to engage in the management of public lands and help the agency respond more efficiently to changes taking place in the environment and across the landscape.

By repealing BLM's planning rule, Republicans are ensuring that more disputes like Red River will develop, more public land will be lost or destroyed, and more litigation will ensue, all costing taxpayers more money.

So, Mr. Speaker, when we talk about H.R. 428, it is just the latest step in a very unpopular, anti-public lands campaign. Americans across the country have equal ownership and right to access and to enjoy all the resources. Whether it is a national park in Mon-

tana, a national park in Hawaii that has a volcano, forest lands in Pennsylvania, or wetlands in Colorado, the opportunities afforded through these resources belong to us all, regardless of hometown, education, means, or experience.

Despite the fact that we are talking about a 160-mile stretch of the Red River, by cutting away at the authority and management tools Federal agencies have at their disposal, this bill furthers my colleagues across the aisle's national public lands agenda and threatens the multiple-use principle that governs all BLM lands, all while costing the taxpayers the money.

It is like adding insult to injury. Not only do we pass a law, but we are also paying the States to do the survey.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I reserve the balance of my time.

Ms. HANABUSA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Hawaii has 11½ minutes remaining.

Ms. HANABUSA. Mr. Speaker, I yield myself the balance of my time.

I want to conclude by acknowledging that I have read all of the various statements and the cases about the property owners along the Red River. I do understand that providing them with certainty and assurance that their property rights are not threatened is a goal that many share.

However, it would be unprecedented and would only further complicate matters to transfer the Federal survey authority over public domain to the States. This is not the way our public lands should be managed.

There is a transparent, objective process to determine ownership along the Red River. This bill subverts that process and sends \$1 million in Federal taxpayers' money for a State purpose. This is neither fair nor just outcome.

With the long, complicated history and various ownership claims along the Red River, BLM has to be allowed to complete its planning process and land survey. It also needs the right to have a say, which this bill, H.R. 428, eliminates that right.

Congress should not determine the outcome of what essentially amounts to a three-way property dispute by conceding Federal authority to a State. BLM has its tools it needs. We just need to get out of the way and let them do their work, which they have been trying to do over the years; and we do know 2013 has begun the process.

I urge my colleagues to reject the bill.

Mr. Speaker, I yield back the balance of my time.

□ 1545

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Now, in summary of what we have heard today, this situation is a result

of a silly and suspect survey that has slapped the citizens with uncertainty and soured them for the security because seizing citizen sites has taken place.

The question was asked: Where is BLM? That is a good question. Where is BLM? They started this problem 8 years ago and have yet to do anything to try and solve the problem. That is why this bill is here before us because BLM has not done their job. Using a poor survey process, they have simply put people who have done nothing wrong in doubt of their ownership of their property which they have had for generations and have been paying taxes on for years. Yet, in 8 long years, BLM has done nothing to solve the situation to give them the certainty so they know where they stand.

That is why the private citizens went to court. The only reason it is in court is because these private citizens were so frustrated with BLM taking so long to do something that could have been done within a matter of weeks, and yet it is now 8 years into a process simply because BLM used a flawed survey. Instead of using the gradient boundary survey method that the Supreme Court suggests, they did something else which brought them to the unusual conclusion that BLM actually owned 90,000 acres of land on this riverbank that they have never had in their history.

Later, they realized that was an unusual claim, so they lowered it down to: I own 30,000 acres of land—but 30,000 acres of land that has been in private property for years, for generations, they have been paying taxes on it, and now their land is in limbo. They can't do anything simply because BLM has refused to do its job.

It is not just here in Texas. Go across the State boundary to Louisiana where Lake Bistineau has the exact same problem with the exact same survey problems from the same agency, BLM. Go all the way to Colorado with Elkhorn Ranch. Once again, survey problems done by BLM which placed claims on private property that are exorbitant and yet moves at a snail's pace to try and solve the problem.

One of the first issues I dealt with when I came to Congress was Hyde Park, and, once again, the Federal Government—this time it was the Forest Service—taking claim on lands that had been, for generations, in private property and refusing to try and work with the property owners to solve the problem. That is what has been going on for 8 long years with the boundary line between Texas and Oklahoma.

Why are we coming here with a bill? Simply because you have got to solve the problem. You have got to fix the problem for people.

I have to also say something. The misrepresentation of the BLM planning rule that was presented is a total misrepresentation. In fact, when we removed that rule, the 2.0 planning rule, we did it because people want to have

their voices heard and are eliminated if that planning rule goes into effect. That is why it has to stop, so this type of situation does not happen again.

Some people have said this may be an unprecedented concept. Actually, our realization that somebody has to handle the situation by actually allowing Oklahoma and Texas to pick qualified surveyors, do the survey—and do the survey—and then coordinate with the tribes so they come up with a process, that is exactly what should have happened in 2009. Because BLM didn't do it, we are going to bring a bill to make sure they actually get something done.

This has been supported by the Texas and Oklahoma Farm Bureaus, the Texas General Land Office, Texas Southwest Cattle Raisers Association, and the people who live in this area who want to have some kind of conclusion so they can have their property rights respected.

Now, it has been said what we are doing is unprecedented—perhaps. What we are doing is trying to solve the problem to help people; and if it takes an unprecedented action by Congress to solve people's problem and let them move on with their lives, then that is the responsibility of Congress. We are the ones who establish what the policies should be, not some executive branch agency of government. It is our responsibility.

We are doing exactly what the people expect us to do by saying 8 years of unexpected and unanswered questions is far too long. Solve the problem and help people so they know what is their private property and what is not their private property and they can move on with their lives. If that is unprecedented, then it is about time we did something that is unprecedented. That is important.

That is why this bill is here, and that is why this bill is here now. It is coming at the beginning of the session because we cannot wait longer for the BLM to actually do what they should have done in 2009.

Now, Mr. Speaker, I want you to realize we are here on Valentine's Day. There is nothing special about that, but this is an issue where there has been no love lost. In fact, the landowners along this river have been simply soaked. But deep in the heart of Texas—all right, I know it is a boundary line, but I have got to get the heart in there some way. Deep in the heart of Texas, we are coming forth with a bill that is showing that the love for people who have paid their taxes and lived on this land for generations is not forgotten and that BLM has committed a crime of the heart with this land grab.

Indeed, Chairman THORNBERRY has passionately defended the interests of his constituents who just want to know the government loves them. That is why this bill is here. That is why it needs to be supported, and that is why I urge you to vote “yes.”

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 99, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HANABUSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 52 minutes p.m.), the House stood in recess.

□ 1615

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOLDING) at 4 o'clock and 15 minutes p.m.

RED RIVER GRADIENT BOUNDARY SURVEY ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on passage of the bill (H.R. 428) to survey the gradient boundary along the Red River in the States of Oklahoma and Texas, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill.

The vote was taken by electronic device, and there were—yeas 250, nays 171, not voting 10, as follows:

[Roll No. 92]

YEAS—250

Abraham	Brat	Comstock
Aderholt	Bridenstine	Conaway
Allen	Brooks (AL)	Cook
Amash	Brooks (IN)	Costello (PA)
Amodei	Buchanan	Cramer
Arrington	Buck	Crawford
Babin	Bucshon	Crist
Bacon	Budd	Cuellar
Banks (IN)	Burgess	Culberson
Barletta	Byrne	Curbelo (FL)
Barr	Calvert	Davidson
Barton	Carter (GA)	Davis, Rodney
Bergman	Carter (TX)	Denham
Biggs	Castro (TX)	Dent
Bilirakis	Chabot	DeSantis
Bishop (MI)	Chaffetz	DesJarlais
Bishop (UT)	Cheney	Diaz-Balart
Black	Coffman	Doggett
Blackburn	Cole	Donovan
Blum	Collins (GA)	Duffy
Bost	Collins (NY)	Duncan (SC)
Brady (TX)	Comer	Duncan (TN)